

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI

In re:)	Case No. 19-60880-can7
)	Chapter 7
RAY ALLEN DANLEY)	
TRINA L. DANLEY)	
Debtor.)	
)	
J. KEVIN CHECKETT)	
Plaintiff,)	Adversary No. 19-06029-can
)	
vs.)	
)	
CARVANA, LLC)	
Defendants.)	

ANSWER OF CARVANA, LLC TO COMPLAINT

Defendant Carvana, LLC (“Defendant”) for its Answer to Plaintiff Trustee J. Kevin Checkett’s (“Plaintiff”) Complaint answers as follows:

1. Defendant admits the allegations in Paragraphs 1-9 of the Complaint.
2. Defendant denies the allegations of Paragraphs 10-14 of the Complaint and demands strict proof thereof. Further answering, Defendant states that the Debtor purchased a 2018 Toyota Camry on or about April 6, 2019 and granted Carvana, LLC (“Carvana”) a security interest in the vehicle. Defendant electronically filed a Notice of Lien shortly thereafter as required by Mo. Rev. Stat. Section 301.600 et seq. and an electronic receipt was issued. At the same time, a completed and executed Application for Missouri Title and License was given to the Debtor and the Debtor apparently paid sales tax and registered the vehicle on or about May 16, 2019. Copies of the Retail Installment Contract and Security Agreement, Notice of Lien Receipt, and Title Application are attached hereto as Exhibit “A”.
3. With respect to the allegations of Paragraphs 15-21 of the Complaint, Defendant admits that the Trustee has certain rights under Section 544 of the Bankruptcy code, but Denies

that its lien is voidable or subject to attack as a fraudulent conveyance. Such allegations are refuted by public records which speak for themselves and any remaining allegations are denied. (“The Notice of Lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery...” Mo. Rev. Stat. Section 301.620.) Upon information and belief, the electronic record generated by the Department of Revenue reflects that the date of perfection relates back to the date of purchase if the Notice of Lien is filed within 30 days (“Purchase Date” and “Lien Date” will match) If filed after 30 days, the “Lien Date” will reflect the actual date of filing.

4. Further Answering, Defendant states that upon information and belief the “Title Issue Date” in the Missouri Department of Revenue electronic records simply reflects the actual date that the Owner paid sales tax and registered the vehicle – which may occur more than 30 days after purchase since the sales tax is substantial and must be paid in one lump sum.

5. Further Answering, Defendant states that a timely filed Notice of Lien has been found to be a sure method (and perhaps the only method) to perfect. See *In re McFarlane*, 298 B.R. 878 (Bankr. W.D.Mo. 2003), *In re Scott*, Case No. 14-20092, Adv. No. 14-2009 (Bankr. W.D.MO. December 3, 2014); *In re Jonas*, Case No. 19-41825 (Bankr. W.D.Mo. Oct. 1, 2019) and *In re Seifert*, Case No. 05-20671-659, Adv. No. 06-2002-659 (Bankr. E.D. MO. July 18, 2006). (Copies of all cases are attached for the Court’s convenience)

Affirmative Defenses – All Counts

6. Plaintiff’s Complaint fails to state a claim upon which relief may be granted.

WHEREFORE, Defendant requests entry of judgment in its favor and against Plaintiff on all Counts, and for such other and further relief as the Court deems just and proper.

LEWIS RICE, LLC
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF MAILING/SERVICE

I certify that a true copy of the Attached Pleading was served either electronically or via first class mail on January 31, 2020 upon the following parties:

Ray Allen Danley
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PRO SE DEBTORS

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TRUSTEE

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U.S. TRUSTEE

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/s/ Michael P. Gaughan

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